

MORE

LIGHT

TO

Mr. John Lilburnes

JURY.

GENTLEMEN,



He main thing you are to know, is,
 That the true Common Lawes of
 England, were neither the dictates
 of any Conquerors sword, nor the
 Will and pleasure of any King, nor
 (yet to speak impartially and freely)
 the results of any Parliament that ever sate in
 this land, Parliaments (under the more right-
 full title of Commoncouncils of the Nation)
 having its foundation only in the common law;
 and so at most is but one of them; and neither
 hath, nor can have power over the rest of its

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fellow-standing Laws; to contradict, alter, or repeal any of them, more then it hath power to destroy its own being.

And the most learned Judges when they would give the greatest respect unto them, have been wont to tell the People, That they are so Ancient that no Man knows the beginning of them; so Just in themselves, and so approved in all times by our Ancestors, that they frequently adventured their lives, and freely spent their blood, to preserve them from Violation and Innovation; being, as it should seem, a Compact of the first Possessors of the Land, binding Themselves and their Posterity to the unalterable observance of them: which they might well doe, considering that it was a Law in it self so excellent, as that at this day no considerable inconvenience can be showed therein; but where any alteration hath been made, though by Parliaments, it can be manifestly proved to be ever for the worse.

Like unto that alteration mentioned by Sir Edward Coke, page 54. of a *part. Institut.* where he saith, by the Common Law, to avoid all extortion and Grievance of the Subject, no Sheriff, Coroner, Jaylor, or other of the Kings ministers ought to take any reward for doing his Office, but only of the King upon penalty. After that this Rule of the comon Law was altered, it is incredible what extortions & oppressions have thereupon ensued; so dangerous a thing it is to shake or alter any of the Rules or Fundamentall points of the Common Law:
which

which in truth are the main Pillars and supporters of the fabrick of the Commonwealth, as elsewhere, saith he, I have noted more largely, and yet not so largely as the weight of the matter deserveth.

Such, & so mischievous for the most part, have bin the fruits of Parliament alterations and Innovations upon our ancient Lawes and Rights: And which occasioned the same learned Author magnifying the 29 Chapter of *Magna Charta*, for binding in all causes to Tryalls by Juries: Immediately to cry out thus, Against this Ancient Fundamentall Law and in the face thereof, I finde an Act of Parliament made (as deeming it a most wicked and impudent thing) and when he hath largely set forth the foulness thereof in the Cases of *Empton* and *Dudly*, he pursues it thus most effectually, That the ill success thereof, and the fearfull Ends of those two Oppressors, should deterr others from committing the like (that is, executing of unlawfull Acts of Parliament though unrepealed) for that was their Crime, for which they were indicted, and were found Traytors, and suffered death accordingly) And should admonish Parliaments, that instead of this ordinary and precious Tryall by the law of the Land (that is by Juries) they bring not in absolute and partiall Tryals by discretion: by which arbitrary rule and no other, the late long Parliament (nevertheless adjudged Mr *Lilburne*) than which nothing can be more grossly contrary to the Common Law of England.

And as Parliaments have not power over this

precious way of Tryals by Juries, no more here have they power to make that Felony, which in the common Law of England is at most but matter of Trespafs, it being as Fundamental as Parliaments themselves, that no man is to be punished greatly for a small fault, nor smally for a great; so that in all their Proceedings with him, there was nothing from end to end, but Arbitrariness. For they judg him that are not by Law his Judges; that belonging only to Juries; never charg'd him with any Particulars, nor hear him in his owne defence; and are as extravagant in their measure there being no pretence of any Crime above scandalizing Sir Arthur Haslerigg and the Committee of Haberdashers-Hall, and publishing a Petition before presented; and yet for this they Fine him twice his Estate, & banish him for ever his Native Country, and Enact him a Felon if he return.

Which being an Act in all respects contrary to the known Law of the Land, being either groundless (for in the Act none are exprest) or grounded only on their most illegal Arbitrary proceedings with him: or rather upon his name, for they never judg'd him in person at all: now this being an act of Parliament (if it can be proved a Parliament) contrary to the fundamental common and standing Laws of England, is no other but a void Law and such as is no warrantable rule to the good men of England to judge by; or finde any man of Mr. Lilburnes name guilty thereupon: and if any should be so unadvised, or so unchristian, and unconscionable as to finde him guilty thereupon, and be the occasion of his death: he, who soever it be, will stand liable all the days of his life to be questioned for the same, and to suffer life for life, as many as shall be found so to betray the just Rights of the Nation in his murder, it being so les in the eye of the Law. And

And though at present they may see no danger, and may think the times may beare them out; yet as that's no cure for a conscience besmeared with innocent blood, so is there no security can be given for subverting the fundamental Laws of England, in a Case of murder, all good men being bound to prosecute.

And that this is a void Law appears yet further, in that it is grounded upon; and is in execution of a Judgement given in Parliament in way of punishment of a fact, that was never before known, or declared by any Law to be a Crime, whereby Mr. Lilburne or any other could be warned from the same.

42 Edw. 3. 2. The Revision of Rights, the Act that Abolished the Star-Chamber, and the Lord Cokes second part Institutes, folio 53. v. 1. Now that all Laws of this Nature, in being contrary to the known Laws of the Land, are void Laws, and no rules, (but snares both to people and Juries) is manifest, in that at least thirty Parliaments have both confirmed the Ancient Laws and Liberties of England, and declared all Laws made by Parliaments contrary thereto null and void in themselves.

And the reason is evident, for if there should be no firm, standing and established unalterable Law which Parliaments, Juries and all people were bound to maintain, no man could be certain of any thing belonging to his person, life, estate, wife, children, family, conscience, religion, good name, no, not for an houre; for what assurance hath he, but that a Parliamente in this instant is making alterations in some of these, and every day and hour charging, and that dangerously,

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as the most godly men found in Queen *Maries* days, and too many since; though scarce any upon so known a slight account as Mr. *Lilburns*, whose case yet is every mans case; for by the same rule that they enacted him a felon, in case he returned: They might as justly have enacted banishment to every one that should twise dispute the payment of his Taxes, and make it Felony if he returned: And how soon this and worse may be done, if Jury-men will but give encouragement, by finding Mr. *Lilburne* Guilty of Felony: Let every wise man judge in time, and be more wise, then by so doing, involve himself and posterity in blood and slavery.

Now such Laws as these being void Laws, who are to know them to be such but chiefly Juries, who are the only Legal Tryers of all men in all causes, & they are bound in conscience to try all Laws made by Parliament, by the Fundamental Laws, and where they finde them contrary, and that men stand before them to be tryed as Felons upon those Laws, they are bound in conscience to pronounce them not guilty: That it is no Felons, nor in the least deserving death, as in Mr. *Lilburns* case, and not to expect the Direction of Judges and Recorders in the case, who many of them lie under sore temptations of losing their honors, and places of profit, in case they wrest not judgement to the wils of those that are in Power: but you are to keepe a good conscience, and to stick close to the Ancient standing Law, as to that which will stand you in stead, and preserve you being innocent against the greatest and most powerful upon earth. Much

Much you know may be said, to prove the makers of the Act before you, no Parliament; no more a Parliament, then you would deem that a Commoncouncil of London, when the major part were excluded per force. In which case you would think it strange, that Acts made by the minor part should be binding to the City, or any one Citizen; 'tis all a case; and those that have any understanding cannot but know it; and their consciences will put them in mind of it when they shall be most unwilling: those very men that excluded the major part, declaring that they did not look upon the remaining party as a competent judicatory to make Laws; but as persons reserved in order to a new Parliament to be speedily chosen.

And for further illustration, you know, though a full Commoncouncil may lawfully make Acts of Commoncouncil for the better government of the City; yet if they make any contrary to the Charter and antient Custom of the City, it is a void Act: and being so pleaded, hath so proved; and by Juries hath been given against the plaintiff thereupon. Now is the City hath standing Laws, so much more hath the Nation: and though the Commoncouncil of the Nation may possibly have a power of making Laws in some cases; yet as they must not be busi-bodies which have confounded all, so must they be sure to make none contrary to the standing Laws: or if they do, they are to be holden for none, and void Laws, by the good men of England, who are the strong out-guards and Fortresses of the Laws and Liberties of England, and must not betray their trust, for any reason whatsoever; these being a certain

and express power of judgement fixed in them to judge in all causes whatsoever, which none can contradict:

'For the learned well observe (as an unerring maxim) That by experience of all times, and the consideration of humane frailty, this conclusion is necessarily deduced, That 'tis not possible to keep men in all times (be they the two Houses, or the King and his Council) but there will be sometimes some deviation from the Laws; and therefore 'the constant and certain powers fixed by the antient Law must not be made void.

W. c. 17

Whereby it appeareth, that it is taken for granted, Parliaments may err, and that they do err, when they deviate from the antient Laws; by which Laws only their errors are to be known: those being like touchstones to try all laws made by Parliament, whether they are current or counterfeit, and that Juries only in such cases are the Judges; they being the only legal tryers of all causes; and this power fixed in them, is not to be made void either through their superstitious dotage upon Parliaments, nor by any childish fear in themselves; nor by the presumptuous affirmations of Judges, Recorders, or such Lawyers as are apt to tell you Acts of Parliament are not to be disputed: Parliaments having been long time their very good friends; their making, altering, and repealing Laws, having made long work for them to their profit and advancement; but to the perplexing and vexation of the people, as you very well know; and therefore hearken not to them, but without fear or favour discharge your consciences faithfully and confidently, as becometh true Englishmen, and good Christians; and even in this case of Mr. Lilburne, not to stagger in the least; but since it is evident to every one of your consciences, that he is not charged with any thing that in the true Law of England is a felonious crime; nor hath in the least deserved to die: you can do no less then pronounce him not guilty; and in so doing, not only preserve this most miserably afflicted man and his family, but in him, your selves, your wives, children, families, and posterities, in the preservation of our antient Laws and Liberties, from the tyranny of Bye-laws, or Parliament Innovations.

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